

STATE OF MINNESOTA
ENVIRONMENTAL QUALITY BOARD

In the Matter of the Need For an
Environmental Impact Statement for the
Waseca Plant Proposed by NGPP Biomass,
LLC

Findings of Fact, Conclusions and Order
Determining that No EIS Is Needed

EQB Docket No. 03-67-EAW-NGPP
Biomass

The above-entitled matter came before the Minnesota Environmental Quality Board at a regular meeting on November 20, 2003.

STATEMENT OF ISSUE

The board's decision in this matter shall be either a negative or a positive declaration of the need for an environmental impact statement. The board must order an EIS for the project if it determines the project will have the potential for significant environmental effects (Minnesota Rules part 4410.1700).

Based upon the information in the record, which is comprised of the EAW for the proposed project, written comments received, responses to the comments and other supporting documents, the EQB makes the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

Project Description

1. NGPP Minnesota Biomass, LLC (NGPP Biomass) has proposed to construct, own, and operate a 38.5-megawatt, "closed-loop" biomass-fueled power generating plant near Waseca, Minnesota. The project will be located on approximately 80 acres of land. There are currently two sites being considered. Site 1, the preferred site, is located along County State Aid Highway (CSAH) 57 and CSAH 27 in St. Mary Township, Section 13, Township 107 N, Range 23 W. The second site, Site 2, is located along CSAH 4 and CSAH 9 in Woodville Township, Section 19, Township 107 N, Range 22 W.
2. The project arose as a result of Minnesota laws enacted in 1994 requiring Xcel Energy to contract for 125 MW of power from biomass fueled projects. The project was selected in a bid process conducted pursuant to procedures approved by the Minnesota Public Utilities Commission (PUC).
3. The plant, to be completed in late 2006, will convert approximately 40,000 tons of wood, wood wastes, and agricultural biomass per month into electricity. This renewable energy supply system will displace approximately 22.4 million therms of natural gas per year or 370,714 tons of coal per year presently used to generate electricity for Xcel Energy's customers.
4. The plant may use natural gas as a fuel for startup and shutdown, which will require a short tap from a Northern Natural Gas pipeline. This pipeline passes through Site 1 and just north of Site 2.

5. The electrical output will be connected via a 115 kV transmission line, to the Xcel Energy's transmission grid in the vicinity of the Loon Lake substation. The ownership and maintenance responsibility for the transmission line will be determined by the parties (i.e., NGPP Biomass and Xcel Energy) at a later date. Depending upon the actual route, the transmission line will be between one and two miles long. The transmission line owner may have the option to apply for either a local or state permit for the line.

Procedural

6. Minnesota Rules part 4410.4300, subp 3 requires the preparation of an EAW for the construction of an electric power generating plant with a generating capacity between 25 and 50 megawatts. The purpose of the EAW is to aid in the determination of whether an environmental impact statement should be prepared. The EQB is designated as the responsible governmental unit.
7. NGPP Biomass submitted the data portion of the environmental assessment worksheet to the EQB staff on August 26, 2003. The staff added supplemental data and prepared the EAW.
8. Notice of the availability of the EAW was published in the EQB Monitor on September 15, 2003. This initiated the thirty-day comment period.
9. The EAW was distributed on September 10, 2003, to the EQB distribution list pursuant to Minnesota Rules part 4410.1500.
10. On September 10, 2003, a press release containing the notice of availability of the EAW for public review was sent to the Waseca County News. The comment period for the EAW closed on October 15, 2003.
11. Copies of these proposed Findings of Fact were mailed to all commenters on November 12, 2003.

Agency Letters Included in the EAW

12. In a letter dated June 6, 2003, the MN Historical Society found that there are no properties listed on the National or State Registers of historic places and no known or suspected archeological properties in the area that will be affected by this project.
13. In a letter dated May 27, 2003, the Minnesota Department of Natural Resources (DNR) stated that a review was conducted of the Minnesota Natural Heritage database to determine if any rare plant or animal species or other significant natural features are known to occur within the project area. Based on this review, the DNR determined that no known occurrences of rare species or natural communities exist in the project area.
14. The United States Fish and Wildlife Service (USFWS) did not submit any comments on the project in response to HDR's requests.

EAW Comments

15. In a letter dated September 29, 2003, Mr. Forrest T. Izuno with the University of Minnesota's Southern Research and Outreach Center (SROC) expressed support for the project.
16. In a letter dated October 14, 2003, Mr. Mark Leiferman, Community Development Director with the City of Waseca, expressed support for the project.

17. In a letter dated September 29, 2003, Ms. Angela Knish, Waseca County Planning and Zoning Administrator, made comments and also requested more information about several aspects of the proposed plant's construction and operation: the ash handling system; impacts to water quality; waste disposal; traffic impacts; the water vapor plume from the cooling tower; odors; and height restrictions in the vicinity of the airport .
18. In a letter dated October 9, 2003, the Minnesota DNR - Environmental Policy and Review Section - offered comments on (1) Water use and discharge and, (2) Impacts on wetlands, especially concerning Site #2. Additionally, the DNR found that the project did not appear to have the potential for significant environmental effects based on natural resource impacts or considerations.
19. In a letter dated October 15, 2003, the Minnesota Pollution Control Agency - Agency Wide Planning - requested additional information (i.e., that an Air Emissions Risk Analysis be conducted; a request that a statement on Best Available Control Technology {BACT} be included in the record; a clarification on the definition of "agricultural biomass"; and supplementary design information concerning the handling of storm water runoff) before the MPCA could give a final opinion on the need for an EIS. The MPCA also commented on predicted noise propagation and the presence of biomass windrows.
20. In a letter dated October 7, 2003, the Minnesota Department of Transportation (Mn/DOT) provided some text and an illustration to clarify the proposed future route of Trunk Highway 14 (T.H. 14). The department did not anticipate any problems associated with the proposed project and the construction of the proposed T.H. 14 Waseca bypass.
21. No comment letters were received from citizens

Response to EAW Comments

22. The applicant's consultant prepared a written response addressing each of the issues mentioned in the Waseca County Planning and Zoning Administrator's correspondence. Ms. Angela Knish reviewed the applicant's response and was satisfied with its adequacy.
23. The applicant's consultant prepared a written response acknowledging the comments mentioned in the DNR's correspondence. The applicant has been advised that a Groundwater Appropriation Permit would be required if the proposed plant uses effluent that would otherwise be discharged to a surface water. If wetlands are affected by this project all appropriate reviews, approvals and permits will be obtained.
24. The applicant's consultant prepared and submitted to the MPCA the Air Emissions Risk Analysis (AERA) screening evaluation requested by the MPCA. Additionally, their written response included a summary table detailing the HAP emissions. Although the MPCA staff will not have their review of the AERA document completed by the time this matter comes before the Board, the MPCA has not requested that the Board delay its proceedings. The air emissions permit application submitted to the MPCA contains a BACT review. The project is still within the design phase and construction plans for the storm water retention pond are not available, however, the storm water retention pond will be designed and operated in accordance with an NPDES permit. Operations at the proposed plant are to be such that sufficient windrows will be maintained to provide the noise attenuation modeled.

25. The applicant's consultant prepared a written response acknowledging the updated information on the route and timing of T.H. 14 provided in the MN/DOT correspondence.

EIS Standard and Criteria

26. An environmental impact statement shall be ordered for projects that have the potential for significant environmental effects. Minnesota Rules part 4410.1700.

27. In deciding whether a project has the potential for significant environmental effects, the following factors were considered:

- A. Type, extent, and reversibility of environmental effects;
- B. Cumulative potential effects of related or anticipated future projects;
- C. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and
- D. The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

27. With regard to the first criterion (type, extent, and reversibility of effects), the EQB finds that the project will have no significant impacts on water quality or wildlife. The proposed facility will emit pollutants into the air but the amount of these pollutants will be restricted by air permits and the impacts of these additional pollutants are not expected to be significant.

28. Background noise data was collected and predicted noise levels were modeled for the two sites under consideration. Results from the background noise monitoring showed that all levels (i.e., daytime L50/L10 and nighttime L50), except the nighttime L10 at Site 2, were below the Minnesota Noise Standards. The nighttime L10 level at Site 2 exceeds the Minnesota Noise Standard by 3 dBA. This exception was attributed to traffic on CSAH 4. The nearest residential receptor to Site 1 is located approximately 2,500 feet east southeast of the proposed plant. The nearest residential receptor to Site 2 is located approximately 900 feet southeast of the power block of the proposed plant. Predicted operational noise levels at Site 1 indicate that the daytime and nighttime Minnesota L50 and L10 Noise Standards will not be exceeded. Predicted operational noise levels at Site 2 indicate that the daytime L50 and L10, and the nighttime L50 noise standards will not be exceeded.

29. With regard to the second criterion (cumulative potential effects of related or anticipated future projects), the EQB finds two related projects. The projects are a connection to the electric transmission system and a connection to the natural gas pipeline. Both projects are described in the EAW. Plans for the electric transmission line to connect the facility with the electric power grid have not been finalized, but it is expected that a transmission line will be constructed to connect the project to Xcel Energy's transmission grid at the Loon Lake substation. Construction of a transmission line will require either local review or review by the EQB. The natural gas connection will be to an existing Northern Natural Gas pipeline; NGPP Biomass will obtain a State or Federal permit for the pipeline tap. There are no other related or anticipated future projects.

30. With regard to mitigation of environmental effects, several federal, state and local permits are required to ensure that specific environmental effects are mitigated.
31. There are no other specific environmental studies addressing the potential environmental effects of the project as it is proposed to be developed.

Base on these findings of fact the EQB makes the following:

CONCLUSIONS

1. The EQB has jurisdiction to determine the need for an environmental impact statement for this project.
2. The EAW for the proposed NGPP Biomass Plant was prepared, distributed and noticed as required by the Minnesota Environmental Policy Act and Minnesota Rules parts 4410.0200 through 4410.6500.
3. Responses have been provided to all comments on the EAW that were filed.
4. The record includes adequate information to determine whether the proposed NGPP Biomass Plant has the potential for significant environmental effects.
5. The proposed NGPP Biomass Plant does not have the potential for significant environmental effects.
6. Any findings that might properly be termed conclusions and any conclusions that might properly be termed findings are hereby adopted as such.

ORDER

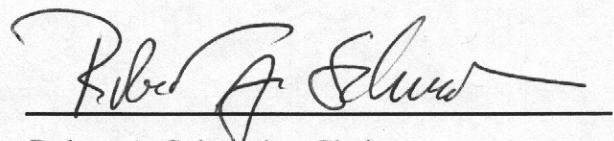
Based on the Findings of Fact and Conclusions contained herein and on the entire record:

The Minnesota Environmental Quality Board hereby determines that the proposed NGPP Biomass plant does not require the preparation of an environmental impact statement.

Approved and adopted this 20th day of November 2003.

State of Minnesota

Environmental Quality Board



Robert A. Schroeder, Chair